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MGM Grand Hotel, LLC

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

SALVADOR A. LIBUTAN, an Individual

Plaintiff,

vs.

MGM GRAND HOTEL LLC, a Domestic
Limited-Liability Company.

Defendants.

Case No.: 2:20-cv-00304-RFB-NJK

**STIPULATION AND ORDER TO STAY
PROCEEDINGS FOR 90 DAYS**

[Second Request]

Plaintiff Salvador A. Libutan (“Plaintiff”) and Defendant MGM Grand Hotel, LLC (“Defendant” or “MGM Grand”), by and through their counsel of record, jointly request this Court to temporarily stay discovery and all proceedings in this case for 90 days, until August 31, 2020.

I. STATEMENT OF FACTS

1. Procedural History of This Case.

Plaintiff’s Complaint was filed on February 12, 2020 (ECF No. 1) and served on Defendant on February 18, 2020. *See* ECF No. 6. On March 10, 2020, Defendant filed a Partial Motion to Dismiss Plaintiff’s Complaint (“Motion to Dismiss”). ECF No. 8.

On March 24, 2020, this Court granted the parties’ request to stay proceedings for 70 days, until June 1, 2020, due to exigent circumstances resulting from the COVID-19 pandemic. *See* ECF No. 14. Thus, no scheduling order has yet been entered, nor have any other dates yet been scheduled by the Court in this case.

2. State-wide and National Events Since Defendant's Motion to Dismiss Was Filed.

As the Court is aware, in mid-March 2020, a state of emergency was declared in Nevada and nationally due to the COVID-19 pandemic.¹ MGM Grand suspended operations on March 17, 2020 and, the next day, Governor Sisolak ordered all gaming establishments, including MGM Grand, to close, and all casinos in Nevada remain closed to date.²

On May 26, 2020, Governor Sisolak announced that gaming establishments would be permitted to reopen on June 4, 2020 subject to strict Health and Safety Policies issued by the Nevada Gaming Control Board, with significant restrictions on operations and guest capacities.³ MGM Grand expects to open on June 4, 2020 in compliance with these limitations.⁴ These health and safety protocols will require dedication of massive resources in order to ensure the safety of employees and guests, and the necessary limitations on operations will further temporarily, but significantly, strain resources.

II. LEGAL STANDARD

"District courts have discretion to stay the proceedings before them in light of their inherent power to control their own dockets and promote judicial economy." *Robben v. Carson City*, No. 3:13-cv-0438-RFB-VPC, 2016 U.S. Dist. LEXIS 52197, at *2-3 (D. Nev. Apr. 19, 2016) citing *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1110 (9th Cir. 2005); *Landis v. North Am. Co.*, 299 U.S. 248, 255 (1936). Although stays are disfavored, a stay may be granted when the request is for a limited duration, with a defined end point, and the risk of harm to another party is absent. *Dependable Highway Express, Inc. v. Navigators Ins. Co.*, 498 F.3d 1059, 1066 (9th Cir. 2007). This is a joint request by the parties and, therefore, no prejudice to either party will result from the granting of the stay requested.

Navigating the COVID-10 local, national, and global public health emergency has imposed a

¹ See, http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-15_-_COVID-19_Declaration_of_Emergency_Directive_001/.

² See, http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-18_-_COVID-19_Declaration_of_Emergency_Directive_002/ (accessed March 21, 2020).

³ See, <https://nvhealthresponse.nv.gov/wp-content/uploads/2020/05/5.26-post-presser-release.pdf>.

⁴ See, <https://investors.mgmresorts.com/investors/news-releases/press-release-details/2020/MGM-Resorts-Announces-Opening-Dates-For-First-Las-Vegas-Properties/default.aspx>.

1 massive drain upon MGM Grand's resources. This unprecedented disruption in MGM Grand's
2 business would result in extreme hardship for it to appropriately participate in an Early Neutral
3 Evaluation, which will be required pursuant to LR 16-6, within the next 90 days. Additionally, the
4 unavailability of witnesses and documents due to the continued partial closure of MGM Grand will
5 significantly infringe on both parties' ability to "meaningfully participate in the discovery process,"
6 which is grounds to stay proceedings. *Sears v. Russell Rd. Food & Bev.*, No. 2:19-cv-01091-APG-
7 NJK, 2020 U.S. Dist. LEXIS 44385, at *4 (D. Nev. Mar. 13, 2020)

8 For these reasons, the parties submit that these extenuating circumstances make a stay of
9 proceedings appropriate. Cf. *Parkway Gallery Furniture, Inc. v. Kittinger/Pennsylvania House Group,*
10 *Inc.*, 116 F.R.D. 363, 365-66 (M.D.N.C. 1987) ("Good cause" shown when there are "extenuating
11 circumstances."); *Johnson v. Mammoth Recreations*, 975 F.2d 604, 610 (9th Cir. 1992).

12 The parties further request that the due date for Plaintiff's response to Defendant's Motion to
13 Dismiss be set for 14 days from the latter of: August 30, 2020; or, until the date that any stay this Court
14 may grant has been lifted.

15 This is the second request for a stay of proceedings in this matter.

16 **III. CONCLUSION**

17 The undersigned counsel certify and represent that this request for a stay is submitted in good

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1 faith and is not intended to cause unnecessary burden or delay. For good cause shown, the parties
2 jointly request this Court to stay discovery and all proceedings in this case until August 30, 2020.

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4 Dated: May 30, 2020.

5 **HKM EMPLOYMENT ATTORNEYS LLP MGM GRAND HOTEL, LLC**

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7 By: /s/ Jenny L. Foley

By: /s/ Kelly R. Kichline

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18 *Attorneys For Plaintiff*
19 *Salvador Libutan*

Attorney for Defendant
MGM Grand Hotel, LLC

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ORDER

IT IS SO ORDERED:



RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE

DATED this 17th day of June, 2020.